

**Minutes**  
**Air Pollution Control Board**  
Indiana Government Center South  
Conference Room C  
402 West Washington Street  
Indianapolis, Indiana

**March 5, 2003**  
1:06 p.m.

1. Mr. John Walker, Chairman, called the meeting to order. He noted that a quorum was present.

**CALL TO ORDER**  
**QUORUM**

2. Chairman Walker introduced the board members.

**INTRODUCTION OF**

Present: Mr. John Walker, Chairman  
Mr. John Bacone, Proxy, Department of Natural Resources  
Mr. Howard Cundiff, Proxy, State Department of Health  
Ms. Pamela Fisher, Proxy, Lieutenant Governor  
Mr. Marlow Harmon  
Mr. Chris Horn  
Dr. James Miner  
Mr. Randy Staley  
Dr. Phil Stevens

Also present were Mr. Timothy Method, Commissioner, Ms. Janet McCabe, Assistant Commissioner, and Ms. Kathy Watson, Branch Chief. Others present are recorded on a separate sheet and made a part of this record. A court reporter was present and a transcript is available for review.

3. Ms. McCabe reported that the April 15, 2003 deadline for submitting recommendations to U.S. EPA for counties that may be designated attainment or non-attainment under the new 8-hour standard, had been extended to July 15, 2003. Ms. McCabe reported that IDEM is awaiting U.S. EPA's approval on the Early Action Compact. She also updated board members on U.S. EPA's issuance of revised rules for new source review (NSR) construction permits for large projects. Ms. McCabe stated that a first notice for the NSR rulemaking would be submitted to the Legislative Services Agency on March 10, 2003 for publication in the April 1, 2003, Indiana Register.

**REPORTS**

Ms. McCabe informed the board of two bills that would discontinue vehicle testing programs that are in the House. One of the bills would discontinue the program in Clark and Lake

Counties only, while the other would discontinue the program in Clark, Floyd, Lake, and Porter Counties.

Ms. McCabe reported on various enforcement settlement monies that Indiana had received as part of a federal and state enforcement action against BP Amoco in northwest Indiana. This was a national enforcement action that involved BP Amoco facilities all round the country, including one that is located in Hammond, Indiana. Indiana received \$500,000 as part of that settlement. The money was to be used for projects in the area of the refinery that would reduce VOC emissions.

4. Chairman Walker stated that this is a continuation of the public hearing before the Air Pollution Control Board that was opened on February 5, 2003, to consider preliminary adoption of amendments to rules 326 IAC 23-1, 326 IAC 23-2, 326 IAC 23-3, 326 IAC 23-4, and the addition of 326 IAC 25-5, concerning lead based paint activities. Chairman Walker introduced Exhibit 1, the draft rule, into the record of the hearing.

**PUBLIC HEARING  
FOR PRELIMINARY  
ADOPTION OF  
AMENDMENTS TO  
RULE 326 IAC 23-1,  
326 IAC 23-2, 326 IAC  
23-3, 326 IAC 23-4,  
AND THE  
ADDITION OF 326  
IAC 25-5, concerning  
Lead Based Paint**

Ms. Watson stated that Indiana's lead based paint program ensures that when an abatement of lead paint is performed, it is done so in a way that protects the people who occupy the facility. An abatement includes activities that are meant to remove a lead based hazard permanently from homes built prior to 1978, and child occupied facilities such as daycare facilities.

Ms. Watson stated that this rule sets the standards that must be followed when an abatement is performed. The rule establishes standards for inspectors and inspections and risk assessments which are done prior to abatement to determine the presence and extent of lead paint, and licensing requirements and fees for inspectors, contractors, risk assessors, project supervisors, and designers, and workers. There are also standards and fees for approving training courses for these disciplines. This rulemaking amends the lead paint rules to add changes required by HEA 1171, which was enacted by the General Assembly in 2002, and to add new requirements from federal lead paint rules. It also proposes changes requested by stakeholders during this rulemaking process. Ms. Watson asked the board to preliminarily adopt the amendments to the rule.

Mr. Tom Neltner, Improving Kid's Environment, commented on the rulemaking and encouraged the board to preliminarily adopt the rule as presented.

Dr. Miner moved to preliminarily adopt the amendments to rules 326 IAC 23-1, 326 IAC 23-2, 326 IAC 23-3, 326 IAC 23-4, and the addition of 326 IAC 25-5. Mr. Horn seconded. The motion passed unanimously.

5. Chairman Walker stated that the Air Pollution Control Board would have a discussion on the environmental rulemaking process.

**ENVIRONMENTAL  
RULEMAKING  
PROCESS AND  
PROCEDURES**

Mr. Guinn Doyle, Chairman, Environmental Law Section of the Indiana State Bar Association, provided the board with recommendations from an informal subcommittee comprised of representatives from the ISBA Environmental Law Section, IDEM, and other interested parties, that had been meeting regularly to discuss the rulemaking processes for all three IDEM boards.

Ms. Betsy DuSold, Attorney, Eli Lilly, representing an informal subcommittee of the Indiana State Bar Association, Environmental Law Section, presented suggestions for positive improvement of the rulemaking processes and development of policies.

Mr. Andy Knott, Hoosier Environmental Council, expressed concern with several items in the rulemaking process memo from Commissioner Kaplan dated January 29, 2003.

Ms. Nancy King, Attorney, IDEM, submitted an outline of a draft of a procedural manual for rulemaking. The manual would be compiled with input from the boards and all interested parties in an effort to cover as many contingencies as possible.

Ms. Cathy Lucas, Attorney, Bose, McKinney & Evans, asked for a listing of board members names and phone numbers, e-mails, etc. so that each member could be notified of upcoming meetings of the Environmental Law Section subcommittee.

6. The next meeting was tentatively scheduled for Wednesday, April 16, 2003 at 1:00 p.m, Indiana Government Center South, Indianapolis, Indiana in Conference Room A.

**NEXT MEETING**

7. Dr. Miner moved to adjourn the meeting. Mr. Cundiff seconded. The vote was unanimous. Chairman Walker adjourned the meeting at 2:19 p.m.

**ADJOURNMENT**

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John Walker, Chairman

*These minutes were taken from the March 5, 2003 transcript, and were written on April 17, 2003, by Karol T. Chuma, Office of Air Quality.*